



UNITED STATES DEPARTMENT OF COMMERCE
The Under Secretary of Commerce
for Oceans and Atmosphere
Washington, D.C. 20230

JUL 19 2005

Donald McIsaac, Ph.D.
Executive Director
Pacific Fishery Management Council
7500 NE Ambassador Place, Suite 200
Portland, Oregon 97220-1384

Dear Dr. McIsaac and Council Members:

By letter of May 25, 2005, the National Oceanic and Atmospheric Administration's (NOAA) National Marine Sanctuary Program (NMSP) formally provided the Pacific Fishery Management Council (Council) the opportunity to prepare draft sanctuary fishing regulations, pursuant to Section 304(a)(5) of the National Marine Sanctuaries Act (NMSA). These regulations would establish marine reserves and marine conservation areas in federal waters of the Channel Islands National Marine Sanctuary (CINMS or Sanctuary). NOAA provided the goals and objectives for the potential action, as well as additional materials, including an analysis of possible alternatives, and sample model regulations to assist the Council in responding to the Section 304(a)(5) opportunity. NOAA is also in receipt of the Council's July 1, 2005, letter to Dan Basta, NMSP Director, regarding the Section 304(a)(5) materials and the Council's actions at its June meeting. A separate, more thorough response will be sent directly from Mr. Basta to the Council to address more fully the issues raised in the Council's July 1 letter.

As indicated in the NMSP's Section 304(a)(5) letter, in response to the Council and the State of California, NOAA is evaluating the legal and administrative viability, and procedures and timeline necessary to establish and implement fishing restrictions to achieve the Sanctuary's goals and objectives under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). We initially hoped to provide the Council with NOAA's determination regarding the viability of using the MSA to meet Sanctuary goals and objectives by July 18, 2005. However, NOAA needs additional time to complete its MSA review and analysis, particularly, to fully assess the feasibility of implementing the Council's June recommendations regarding restricting fishing in the Sanctuary. Presently, we expect to complete this analysis by September or October 2005.

We appreciate your acknowledgement of the need to keep the National Marine Sanctuaries Act (NMSA) and National Environmental Policy Act (NEPA) process moving forward. We agree to grant the Council's request for an additional one-week extension of the 120-day period to allow for a response by November 23, 2005, rather than November 16. However, it is both critical and appropriate for the Council to respond no later than November 23 so NOAA can continue its NEPA and regulatory process in the event NOAA determines that proceeding under MSA is not viable.



As stated in our original Section 304(a)(5) request, “providing the PFMC (Council) with this opportunity (to draft regulations) does not presuppose that regulations will be issued under the NMSA...” Similarly, the National Marine Fisheries Service is continuing with the administrative process necessary to make a decision regarding all the Council’s recommended Essential Fish Habitat actions under the MSA. Keeping both the NMSA and MSA administrative processes moving forward will help ensure the Sanctuary’s goals and objectives for marine reserves and marine conservation areas can be implemented in a timely manner under either regulatory scenario once a NOAA decision has been made. This will also be responsive to the State of California’s concern over timely completion of the reserve process.

We want to thank you again for the Council’s continued involvement in the CINMS marine reserves process, and for its June recommendations toward achieving the Sanctuary’s goals and objectives. Please contact Dan Basta at (301) 713-3125 x235 if you have any questions.

Sincerely,

A handwritten signature in black ink, reading "Conrad C. Lautenbacher, Jr." in a cursive script.

Conrad C. Lautenbacher, Jr.
Vice Admiral, U.S. Navy (Ret.)
Under Secretary of Commerce for
Oceans and Atmosphere